

# GERMANY

## DISMISSAL OF JEWS

### New Court Ruling

#### JUDENREIN UNIVERSITIES IN TROUBLE

#### Winter Relief Co-operation

The future historian of the Nazi dictatorship will have to devote considerable space to the attempt of the Government to control the Judiciary. He will naturally give the greatest prominence to the Reichstag fire trial, but when he browses among the less spectacular records, particularly those of the Labour Courts, he will be able to write a chapter that is quite as illuminating. He will pick out, in increasing number as he passes the months under review, isolated decisions handed down by courts of law, which appear to be based on the following principle: "The policy of the National Socialist Party is not yet the law of the land. It is only when policy is converted into legislation that it concerns a court of law. This process is as yet incomplete and certain rights and duties of the individual under the Second Reich still remain. They are in our custody and it is our duty to give legal force to them." Unfortunately, the historian will have to record that in many of these instances a higher court has been found willing to reverse the decisions based upon this principle.

It may be remembered that at the end of November, the Berlin Labour Court No 1 ruled that "the fact that an employee belongs to the Jewish race is in itself not sufficient ground for dismissal without notice." On Saturday, the Supreme Federal Labour Court overruled this decision. It handed down a ruling that "it is legal to dismiss Jews from employment without notice for the sole reason that they belong to the Jewish race." The Court tried to save its face by appearing to qualify this principle without actually doing so. It declared that "there can be no question of enforcing a principle that every Jew in employment must be dismissed simply because he is a Jew, but membership of the Jewish race may be recognised as a valid reason for dismissal, provided the circumstances have been fully examined and due account has been taken of the situation as it has now been clarified in regard to the Jews." The Court then proceeded as follows: "The ruling that Jews may be dismissed without notice on the ground that they belong to the Jewish race must not be interpreted as meaning that every one in employment who is of non-Aryan origin may be dismissed without notice." Unless this is a reference to those who are neither Aryan nor Semitic, such as the Japanese, it is difficult to see what else it can mean. But the Court became even more abstruse as it proceeded: "Membership of the Jewish race can be put forward only as one of the grounds for dismissal without notice. The other conditions that apply in each individual case must also be examined at the same time, however, and examined from the point of view that has been made clear as applying at the present day. In no case can the anti-Jewish boycott of April 1st, 1933, be regarded as a ground for dismissal, since this was only a temporary measure against Jewish shops. Even the subjective fear of an employer that the continued employment of a Jewish employee would be harmful to his enterprise will not suffice. There must be a thorough examination made to establish whether the circumstances from an objective point of view really make the further employment of this particular employee harmful to the employer or his interests." This would appear to be in flat contradiction to the ruling itself that Jews may be dismissed without notice on the ground that they belong to the Jewish race. This is sufficiently clear and its effect cannot be doubted.

The day before, the Berlin Supreme Court handed down a verdict upholding the dismissal of a film director without notice on April 5th solely because he was a Jew. He had claimed 11,000 marks (£815) due under his contract and 12,000 marks (£890) for the scenario. The company had not completed the picture, on the ground that the scenario was the work of a Jew. The Court found the dismissal justified "because the Government had adopted a definite policy of eliminating Jews from all cultural life in Germany." This Court did not wait for policy to be converted into legislation.

The Prussian Labour Court, however, has handed down a decision based explicitly upon law as opposed to policy. It has overruled the refusal of a lower court to allow a non-Aryan official of an organisation to appear before it on behalf of the organisation. The lower court held that the provisions that apply against non-Aryan lawyers apply also in such cases. Not so, said the State Court. "It is true that, according to the principles of the National Socialist State, non-Aryans are in principle excluded from participation in law. That has been, however, exactly regulated by legislation, and if it had been intended to extend the Aryan principle to representatives of organisations, an appropriate regulation would

have been introduced. This has not been done, and there is no justification for anticipating legislation." The Federal Ministry of Justice was not pleased, and Ministerial Director Dr. Volkmar commented adversely in the *DEUTSCHE JUSTIZ*. He objected that a judge should "decide as he feels about the extent to which the fundamental idea of racial legislation is to be applied." Such free judgment, Dr. Volkmar fears, is in danger of running counter to the real wishes of the Leader.

#### Outside the Law.

One has previously noticed this assumption on the part of Nazi officials that the "real wishes" of the Leader are not to be found in his legislation. And it is only too true that the future historian's most telling chapters will be those that are undocumented in the official records of the Reich. It is worth noting the following impressions of a correspondent who has recently returned from Germany.

"The economic existence of the German Jew is a miserable one. The official boycott of April 1st last was bad enough 'I was told,' but at least it was soon over. But this whispering campaign, this silent boycott, in which every eye may be that of the informer, every hand that of the betrayer, is far more vicious and hurtful."

"The German civil population, by and large, is not unfriendly to Jewry, observers have stated, adding that it must be remembered that quite half the country is out of sympathy with those who have control of its destiny. In measure this is true, but economically, which after all is the most important angle, it is largely negated by the fact that the civil population either may not or dare not trade with the Jew. The 'silent boycott' is doing its deadly work. Besides which, Germany to-day is still living in a kind of stupor, with all initiative bludgeoned out of the individual. One half of the population wonders what to-morrow will bring, the other half fears the dawn."

"In the tramcar, a few minutes after my arrival in the country, and before the shadow of Germany had had time to envelop me, I babbled with the unrestrained freedom of a free citizen of a free country. I made some quip about every street being named 'Adolf-Hitlerstrasse.' My host took alarm and motioned to me to hold my silence. Another passenger was sitting with his back to me—who knew who he might be? My British passport might safeguard me but my friend had no such protection. We arrived at a Jewish house, where the daughter has an 'Aryan' friend. He dare not visit the house by daylight and, when he does come, he deems it advisable to use the rear entrance. One evening we all sat in a front room, talking of conditions in England, when Frau L— suggested, 'we'd better all move into the back room. Someone may pass and see K—' (the young man) through the window."

"Makeshift, haunting fear, suspicion and insecurity—that is Germany to-day. And still there is no light of the dawn of a better day. This ever-present fear manifested itself again when I produced some cuttings from London newspapers—a report of the Einstein meeting at the Albert Hall, Mr. Ormsby-Gore's speech at Geneva praising Jewry's part in Britain's history, the report of the Allocation Committee of the German-Jewish Relief Fund raised in this country. 'Heavens!' exclaimed Frau L—. 'We can't permit those to be found in this house. We must burn them at once!' Yet the family were glad to have the news. 'We are very glad that you came,' they said to me later, 'if only because we have learned so much from you about what is going on in Germany.'"

The Government spares no effort to keep not only its own people, but other nations ignorant of the many uncomfortable truths that lurk in the Third Reich. The censorship of foreign letters passing through Germany was referred to in the Polish *Sejm* the other day. Speaking in the budget committee, Deputy Rosmarin made serious complaint of the opening and censoring not merely of letters to Germany but of letters passing through Germany to neighbouring countries.

Arrests, decreasing in frequency, still occur often enough and irresponsibly enough to keep Jewish nerves on edge. Though four years since his death will have passed next month, the hunt for someone who can be branded as the murderer of Horst Wessel goes on. Two more men have been arrested and one of them is a young Jewish painter named Saly Epstein. It is alleged that he shared with a seaman named Stoll the job of watching the street while the attack on Horst Wessel's room was made. He has been charged with manslaughter, and his arrest (regardless of what the verdict may be) is already being made to serve as anti-Semitic propaganda.

Behind every arrest is the shadow of a concentration camp. These camps have not ceased to exist because they have ceased to be "news," and Mr. Rennie Smith contributed to the *MANCHESTER GUARDIAN* last week an account of a personal visit to Dachau that was no less terrifying because it was restrained and factual. He sums up: "As one who was a civil prisoner in Germany (Ruhleben) during the World War of 1914, I was more than interested to compare the two experiences. I do not hesitate to say that even at the height of Prussian Jingoism in the early months of the War, the humanities as between German gaolers and British civilian prisoners were on an incomparably higher level in 1914 than in the treatment of Germans by Germans in the concentration camp of 1933." One can indeed believe anything of the storm troops who, when they were instructed to confiscate the house of Lion Feuchtwanger, demolished his library, tore up his manuscripts, mangled the scientific material that he had collected, trampled the flowers in the garden and killed his pet cats and tortoises. It is perhaps kindest to believe that a cog has slipped somewhere, but the most sympathetic and Bartlettian attitude to this spirit cannot blind one to its prevailing danger to German Jewry and its potential danger to the world.

#### Registration of Racial Descent.

The mentality that has in many schools forbidden the Jewish children to participate in the common swimming lesson, because physical contact with an inferior race would pollute the Aryan children, now envisages compulsory registration of racial descent

for all families. Such registration exists at present only for the families of state and municipal employees, but it is now announced that an extending law will shortly be promulgated. The population are therefore urged to collect individual and family data to show that they are of Aryan descent, and to preserve old photographs and pictures of their ancestors. Young people are warned that, before marrying, they must make sure that their betrothed are of pure Aryan descent, "because the marriages contracted in the future will be of decisive importance for Germany's future."

Dr. von Oppeln-Bronekowsky, a well-known non-Jewish writer, has written a book entitled "Solving the Jewish Problem" and has obtained a publisher for it in Berlin. The book analyses the Jewish situation in Germany and pleads for a better understanding of the problem. It has therefore been banned in Thuringia. It is good, however, to be able to record the publication of such a book and an even more extraordinary piece of news comes from Baden, where the State Minister of Education recently invited Dr. Stein, the Chairman of the Council of the Jewish Communities in the State, to call upon him, and discussed with him for over an hour Jewish conditions in Baden and the education of the Jewish youth. Such commonsense, however, is rare and stands isolated against the usual list of insanities on the contra side of the account.

For instance the Linden Municipality has prohibited Jews from taking part in local fairs. Dr. Erick has forbidden publishers of calendars and diaries to cite Jewish holidays. Hitherto many calendars and diaries contained the Jewish holidays for the benefit of both the Jewish and non-Jewish buying public. A circular against Jewish doctors has been distributed in the streets of Berlin and other cities, asserting that if once a German patient visited a Jewish doctor he could never free himself from his clutches. Its object is to put an end to the secret visits of Aryans and even Nazis to Jewish doctors, still common in view of the faith of many Germans in the superiority of Jewish doctors.

That the racial purge is having a deleterious effect on the Universities was admitted (not for the first time) in an article on the front page of the *FRANKFURTER ZERTUNG* on Sunday. "Considerable difficulty," says the article, "is being found in filling the Chairs vacated by reason of the Official Law. Many who came forward to fill these vacancies were young tutors who had not been long enough at their posts to prove that they had the intellectual, human and personal qualifications for professorships. . . . In the Universities, as in art, political integrity and service alone must not, as Dr. Goebbels has said, be the deciding factor. The factor was naturally present in the period of stormy development and change, and consequently it was considered advisable in many cases to give temporary posts, which after a suitable period could be confirmed or withdrawn."

Yet the purging goes on. The Government has prohibited the entry of non-Aryans into the Training Colleges for Teachers. The Prussian Minister of Education has prohibited Jews from being members of school committees. This decree excludes Jews from all posts in school administration and cancels the provision of the law enacted in 1906 which entitled Rabbis to sit on school committees in all local schools where there were at least twenty Jewish pupils. The Hessian Ministry of Education has issued orders that in no circumstances should free places in educational institutions be placed at the disposal of non-Aryans.

#### Winter Relief.

In many localities other rights, too, are being withheld from non-Aryans on the authority of the local officials. The *MANCHESTER GUARDIAN* correspondent confirms that unemployment benefit is among these and there is further evidence that discrimination is being used in the distribution of winter relief. Local action in this matter is against the policy of the Government; this is to gather in as many Jewish cheques as possible, which can only be done on the clear understanding that Jewish applicants shall receive relief. In furtherance of this policy an extraordinary sight was recently to be seen in Berlin. The Jewish Community inaugurated a special campaign in support of the relief funds and at its first meeting, attended by over 3,000 Jews, members of the Nazi party and storm troops in uniform were officially present. They sat on the platform beside the representatives of the Community and they applauded Herr Heinrich Stahl, the President, when he called upon the Jews to contribute to the funds. But when Herr Stahl put out a feeler expressing the hope that this co-operation "would pave the way for a better

understanding of the Jewish position also in other directions," they refrained from applause.

Herr Stahl has naturally been the subject of criticism among the community for agreeing to co-operate with the Nazis when it happens to suit them and he has issued a statement, in the course of which he says: "Our Jewish religion commands us to alleviate all distress, to help all people who are in need, and it is the task of the Jewish Community to convert the teaching of Judaism into action. The appeal for the winter aid work for the German people is directed to the whole people, and is to benefit all who are in need, and in such general work there can be no distinction of origin or faith. This principle has been accepted by the responsible leaders of the winter aid work as the guiding principle of the work."

"The administration of the work, in which all religious communities, federations and organisations are collaborating, has been entrusted to the National Socialist Welfare Department, and this Department has, in the most understanding manner, declared its readiness to place the applications made by Jews in need in the hands of our Jewish Welfare Office, which will be left to deal with them, so that we have every guarantee that the applications of the members of our Community will be dealt with in the same spirit of justice and benevolence as those of all others who are in need."

"Originally the winter welfare work was to be confined to German citizens. But now the National Socialist administration has decided that aliens in need, including foreign Jews, are also to be assisted out of the funds, in exactly the same way as any citizen who is in need. And so that our co-religionists should get kasher food, it has been ordered that they can obtain their provisions from Jewish shops."

"The State has in this matter shown that it is looking after the interests of all inhabitants in need. We have also come to an agreement with the leaders of the Welfare Department that part of the funds raised by us will remain at the disposal of the Jewish Welfare Office and the other part will go to the general winter aid welfare work from which all will benefit. And therefore I call on all Jews to do their duty to this fund."

It appears now, however, that foreign Jews are to receive relief only if their consulates support the fund. Moreover, Herr Stahl is not the only one to meet with criticism from his supporters. The Government is getting its share too. The attitude of the Nazi critics is well summed up in an article in the *FRANKISCHER VOLK*, a daily newspaper appearing in Würzburg. "We protest," says this paper, "against putting down the names of Jews as contributors on the lists side by side with our German names. We base our protest on public statements made by our leaders that Jews are not a part of the German nation, and we invoke the authority of the Aryan Paragraph."

The Administration of the winter relief in Offenbach has withdrawn its order that people who receive relief cards for coal and meat must exchange them only in Aryan shops. "Now that Jews are receiving winter relief on the same basis as non-Jews, and are willingly contributing to the Winter Relief Fund, there is no reason why Jewish butchers should not be equally privileged to supply meat for relief cards," the Administration states.

At the request of the Director of the National Socialist Department of Charity in Bavaria, the Jewish charity and relief organisations of Bavaria have been merged into a centralised body, which will be known as the "Federation of Jewish Charity Organisations in the Free State of Bavaria."

#### Boycott Progress in America.

[From our Correspondent.—NEW YORK.]

The American Jewish Congress has announced that it will in the future conduct its boycott activities in co-operation with the American Federation of Labour with whom it has been negotiating in an endeavour to work out a joint programme of action. The American Federation of Labour has, in the meantime, called on organised labour throughout the United States to make the boycott of German goods effective by whatever means possible.

Jewish boycott elements, including the American Jewish Congress and the Untermyer boycott organisation, have expressed deep gratification at the decision of the Federation to make the boycott as effective as possible.

In the meantime, Mr. Untermyer's organisation, the American League for the Defence of Jewish Rights, has formed a new group to be known as the Non-Sectarian Anti-Nazi League to Champion Human Rights. Both these organisations will devote themselves to furthering the boycott as well as to countering the spread of Nazi propaganda.

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